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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,532	11/21/2001	John Brinkman	3992P002	3089

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EXAMINER

COULTER, KENNETH R

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,532

Applicant(s)

BRINKMAN ET AL.

Examiner

Kenneth R. Coulter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 1899.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-14,16-19,21-32,34-37,39-50 and 52-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-14,16-19,21-32,34-37,39-50 and 52-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1, 3 – 14, 16 – 19, 21 – 32, 34 – 37, 39 - 50, and 52 - 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa (U.S. Pat. No. 6,426,455) (System and Method for Teaching/Learning to Play a Musical Instrument) in view of Pennock et al. (U.S. Pat. No. 6,664,460) (System for Customizing Musical Effects Using Digital Signal Processing Techniques).

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2.1 Regarding claim 1, Hasegawa discloses a system to deliver a multimedia presentation of an audio file to a computing device for display to a user that allows the user to play a musical instrument in conjunction with the multimedia presentation, the system comprising:

a server to transmit a session file to the computing device through a computer network in response to a user selecting a musical piece, the session file associated with the selected musical piece, the session file including an audio file and multimedia data such that the computing device processes the session file to present the multimedia presentation of the audio file to the user (Abstract "server 30"; Fig. 1; col. 5, line 56 – col. 6, line 2); and

an interface device connected to the computing device and the user's musical instrument, the interface device to couple the musical instrument to the computing device such that the user can play the musical instrument in conjunction with the multimedia presentation of the audio file (Abstract; Figs. 3, 4).

However, Hasegawa does not explicitly disclose a control panel graphical interface including an **amplifier** for a musical instrument is displayed by the computing device, the control panel graphical interface having settings that define sound characteristics for the musical instrument.

Pennock discloses a control panel graphical interface including an **amplifier** for a musical instrument is displayed by the computing device, the control panel graphical interface having settings that define sound characteristics for the musical instrument (Abstract; Figs. 12, 4, 8 – 11; col. 12, lines 24 – 50 "In FIG. 12, a portion of the GUI 110

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is a display area 112 identifying all information for both the **amplifiers** and the cabinets.” “The new model is then available for the user to send to other receiving devices such as another PC of another user. In effect, a user can share customized model with others.”).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the amplifier system of Pennock in the system of Hasegawa because the practicing user of Hasegawa would possibly desire customizing the sound as seen in Pennock (Abstract; col. 12, lines 24 – 50).

2.2 Regarding claim 3, Hasegawa discloses the system of claim 2, wherein the control panel graphical interface allows the user to set the sound characteristics for the musical instrument (Figs. 3, 4).

2.3 Per claim 4, Hasegawa teaches the system of claim 2, wherein the multimedia data of the session file sets the control panel graphical interface to pre-defined values to model the sound characteristics of the musical instrument associated with the audio file for the musical piece selected by the user (Figs. 3, 4).

2.4 Regarding claim 5, Hasegawa does not explicitly disclose the system of claim 1, wherein a track associated with the user's musical instrument is removed from the audio file of the musical piece selected by the user such that the user can play the user's

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musical instrument in conjunction with a multimedia presentation of the audio file that does not include the user's musical instrument.

However, this feature is inherent in Hasegawa in order for the user playing the musical instrument in Hasegawa properly learn how to play the instrument.

2.5 Per claim 6, Hasegawa teaches the system of claim 1, wherein the multimedia data of the session file causes the display of music notation associated with the audio file of the musical piece selected by the user (col. 7, lines 42 – 47 “music score”).

2.6 Regarding claim 7, Hasegawa discloses the system of claim 1, wherein the server identifies the user based upon a unique identifier stored in the interface device (col. 5, lines 47 – 50 “identification number”).

2.7 Per claim 8, Hasegawa does not explicitly teach the system of claim 7, wherein the unique identifier stored in the user's interface device is the serial number associated with the interface device.

However, implementing a device serial number as a unique identifier of a user is an inherent GUI scenario that is possibly implemented in Hasegawa but not explicitly disclosed.

2.8 Regarding claim 9, Hasegawa discloses the system of claim 7, wherein the server tailors a presentation of musical pieces to the user based upon the unique

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identifier (col. 5, lines 27 - 55).

2.9 Per claim 10, Hasegawa teaches the system of claim 7, wherein the interface device stores a user key associated with the interface device (col. 5, lines 27 - 55).

2.10 Regarding claim 11, Hasegawa does not explicitly disclose the system of claim 10, wherein the audio file transmitted from the server to the computing device of the user is encrypted with an audio file key associated with the audio file and the audio file key is encrypted with user key for the user and is also transmitted to the computing device.

However, the encryption/decryption of audio data is inherent in order to protect the property rights of the audio data owner.

2.11 Per claim 12, Hasegawa does not explicitly teach the system of claim 11, wherein the interface device decrypts the audio file key that is encrypted with the user key using the stored user key and transmits the decrypted audio file key to the computing device such that the computing device uses the decrypted audio file key to decrypt the audio file.

However, the encryption/decryption of audio data is inherent in order to protect the property rights of the audio data owner.

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2.12 Regarding claim 13, Hasegawa does not explicitly disclose the system of claim 1, wherein the musical instrument is a microphone.

The human voice is often considered an instrument. A microphone is a notoriously well-known device to detect singing.

2.13 Per claim 14, Hasegawa teaches the system of claim 1, wherein the musical instrument is a guitar (col. 7, lines 63 – 67 “stringed instruments”).

2.14 Regarding claims 16 – 19, 21 – 32, 34 – 37, 39 - 50, and 52 - 54, the rejection of claims 1, 3 – 14 under 35 USC 103(a) (paragraphs 2.1 – 5.13 above) applies fully.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER
PRIMARY EXAMINER

krc